



Ohio Senate

Statehouse
Columbus, Ohio 43215

Testimony of State Senator John Carey
Prepared for the
Subcommittee on Housing and Community Opportunity
Congressman Bob Ney, Chair
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Chairman Ney and members of the subcommittee, thank you for allowing me the privilege of testifying before you today here in Chillicothe.

Let me start by saying that as a former Mayor, I am vehemently opposed to the use of eminent domain to take unblighted, private property for the sole purpose of passing that property to a developer for private development. While I can understand how the promise of increased revenue and jobs could make this option palatable for some officials, I feel the safety and security that our constituents feel in their own home is more important. In fact, when I was Mayor, I didn't like to use eminent domain at all but I certainly understand that it is sometimes needed for road, sewer or water projects and I believe that is where eminent domain power should stop.

As I am sure is the case across the country, the Ohio Legislature has had to act quickly in response to the recent *Kelo* decision by the U.S. Supreme Court. Just two weeks ago, Senator Grendell introduced Senate Bill 167, which I will outline later in my testimony. Considering this bill has been co-sponsored by 26 of the remaining 32 senators, including myself, I think it's safe to say that this issue has resonated here in Ohio and that something will be done about it.

In addition to S.B. 167, the issue of expanded eminent domain powers came up during the recent deliberations on House Joint Resolution 2, which will be Issue 1 on the ballot this November. HJR 2 would authorize \$1.35 for public infrastructure, \$500 million for research and development and \$150 million for shovel ready sites. Due to the fact that Issue 1, if passed by the voters, would go into the Ohio Constitution, the legislature did not get specific in terms of language in H.J.R. 2 but I believe there is an understanding that none of the \$500 million for research and development and the \$150 for shovel ready sites will be used for

eminent domain. This will be addressed in the implementation language, if approved by the voters.

Senate Bill 167 creates a moratorium on the use of eminent domain by the state or any political subdivision of the state to take, without the owner's consent, private property that is in an unblighted area when the primary purpose is for economic development that will ultimately result in the property being owned by another private person. This moratorium would last until December 31, 2006 while a 25 member legislative task force, with a wide range of interested parties represented, conducts research and provides recommendations to the General Assembly on how to best update Ohio's eminent domain statutes by April 1, 2006.

While I am generally not the biggest proponent of legislative studies and task forces, I believe in this case this is the right approach to take. I believe the worst thing the Ohio legislature can do is rush this process. While I think most legislators in Ohio do not want to see unblighted, private land taken for private development, it is also important that we do not make the problem worse by rushing legislation through before all the possible ramifications are known. Having a moratorium in place until we can receive recommendations from the task force will allow Ohio to protect property owners while the legislature comes up with a more permanent solution to this problem.

That is a brief outline of how the Ohio Legislature has responded to the *Kelo* decision to this date. I am sure this topic will remain in the spotlight for the near future and other proposals will be made but I think it is safe to say that here in Ohio, the idea of taking unblighted, private property through eminent domain for private development has not been received well. I would be happy to answer any questions you may have.

Mr. Chairman and members of the Subcommittee, this concludes my testimony. Again, thank you for the opportunity to testify here today and I would be happy to answer any questions.